



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MGE - 175904

PRELIMINARY RECITALS

Pursuant to a petition filed July 29, 2016, under Wis. Stat., §49.45(5), to review a decision by the Rock County Dept. of Social Services to deny Medical Assistance (MA), a hearing was held on September 20, 2016, by telephone.

The issue for determination is whether the county correctly determined that petitioner's assets were over the MA limit.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Rock County Dept. of Social Services
P.O. Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:
Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.

2. Petitioner's son filed an application for MA on petitioner's behalf on May 27, 2016. On July 1 the county received verification that petitioner owned a life insurance policy with a death benefit of \$13,826 and a cash value of \$12,502.
3. On July 8, 2016, the agency sent petitioner and his son a notice informing them that the application was denied because income and assets were over the MA limit. With regard to assets the notice showed life insurance valued at \$28,046 and a checking account valued at \$6,597. The notice also showed that the asset limit was \$2,000.
4. The county and petitioner's son continued to work on the application. On July 29, 2016 the agency sent a second notice denying MA, again stating that income and assets were above the limit, with the same assets showing as on the prior notice.

DISCUSSION

The MA asset limit for an individual is \$2,000. Wis. Stat., §49.47(4)(b)3g. If assets are above that limit, the person is not eligible for MA. The statute does not allow for outstanding debts to be deducted from assets, nor does it provide any exceptions for unusual situations. In determining the value of a bank account in a given month, the agency does not count income received in that month. MA Handbook, Appendix 16.1. Life insurance cash values are counted as assets if the total face values of all policies owned by the person are over \$1,500. Wis. Admin. Code, §DHS 103.06(10); Handbook, App. 16.7.5.

Petitioner's son testified at the hearing that the agency was not forthcoming in explaining the policy regarding life insurance, and that he had to file the appeal because the notices did not explain why the application was denied. With regard to life insurance cash value, counting it against the asset limit is written in state law, so it cannot be argued that the rule is a secret. Further, it is the duty of the county economic support worker to obtain income and asset information and make a determination on eligibility. The worker is not an advisor to or representative of the applicant.

The two notices are not without flaws, but they do inform petitioner that the reason for denial is that income and assets are above the limit, and they do show life insurance cash value under the asset column. The income denial is puzzling because income would not affect eligibility for a nursing home or Family Care applicant; it would affect the person's monthly cost share responsibility. I am unclear where the \$28,046 life insurance cash value comes from, but the fact is that the cash value of \$12,502 verified on July 1 clearly was above the \$2,000 asset limit. It was not spent down by the end of July.

Although I understand the frustration of petitioner's son, I can only make a decision on the correctness of the MA denial that was appealed. Because petitioner's assets were over the MA limit, the county agency correctly denied MA. It is clear that the parties are still working on getting petitioner eligible for MA, but at the time the notices were sent the denial was correct.

CONCLUSIONS OF LAW

Petitioner's assets were over the MA eligibility limit in May, June, and July, 2016.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

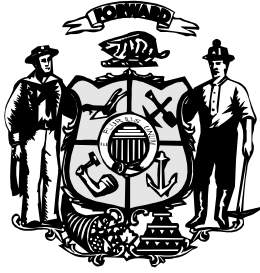
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 23rd day of September, 2016

\s _____
Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 23, 2016.

Rock Cty. Dept. of Social Services
Division of Health Care Access and Accountability